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No. 86-1115

IN THE
Supreme Court of the United States
OCTOBER TERM, 1986

THE LOUISIANA LAND AND EXPLORATION COMPANY,
Petitioner,

v.

TEXACO, INC.,
Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of Louisiana

PETITIONER'S REPLY MEMORANDUM

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Texaco's opposition, like the holding below, essentially rests on ignoring the language in Sections 105 and 109 of the Natural Gas Policy Act (NGPA) that gas be "subject to" an existing contract. This failure to give effect to the entire statutory language—as the court below did by ruling that gas was subject to Section 105 simply because it was "sold under" existing contracts—frustrates the will of Congress as pointed out in the petition. This is so because, if the "subject to" language is ignored, then "producers could rearrange their contractual obligations in an area to funnel all gas produced through the most beneficial contract in the area" (Pet. at

11-12, and App. G at 49a). The "subject to" requirement thus serves the "rational purpose" that Texaco mistakenly refuses to see in "the warranty versus dedication contract distinction" (Opp. at 12). It prevents producers from manipulating their contracts and using federal price controls to limit their royalty obligations.

Similarly unavailing is Texaco's effort to denigrate the importance of the case. That effort is belied, not only by the volume of pending litigation and the large amounts involved, but also by the *amicus* filings in support of the petition submitted by the States of Louisiana and Wyoming and by two associations of royalty owners.

Texaco simply cannot escape the fact that the decision below is incorrect, is contrary to the language and policy of the NGPA and its interpretation by federal officials concerned with gas pricing and royalty issues, and results in letting Texaco and other producers unduly limit their royalty obligations. The petition should accordingly be granted. The Court may, however, wish to request the views of the Solicitor General in light of the importance of the case (Pet. at 9-14) and the substantial interest of the United States (Pet. at 10, 12).

Respectfully submitted,

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